

**C. RICHTER TAYLOR, JR.**

**VS.**

**FORTIS BENEFITS INSURANCE COMPANY  
and TITUS & McCONOMY LONG TERM  
DISABILITY BENEFITS PLAN,**

Plaintiff's objections are without merit. The difficulty in this case is not the shape of the pegs at play. It is this: even if one looks beyond the prejudice created by the untimeliness of plaintiff's claim, the record still reflects a lack of sufficient evidence to meet plaintiff's undeniable burden to establish that defendant's decision was arbitrary and capricious under the applicable heightened standard of review. It is fairly clear that the symptoms from plaintiff's bipolar disorder had begun to surface by his claimed onset date of November 30, 1995, and may upon retrospective examination have meaningfully impacted his ability to perform the material duties of his occupation. But that does not show that Union Security violated ERISA when it determined that plaintiff had not proved he was disabled during the Ninety-day Qualifying Period for a variety of reasons, including the lack of pertinent restrictions or limitations on his abilities

to perform the duties of his occupation, the conflicting information about the degree to which plaintiff was under Dr. Scott's care and attendance at the time and plaintiff's subsequent work record for a number of years following his departure from Titus & McConomy. Its determination was supported by substantial evidence and reflected a logical and reasoned assessment of all the available information. Consequently, it cannot be overturned notwithstanding the lack of an exclusion barring the presentation of claims based on conditions that can have a delayed onset.

s/ David Stewart Cercone  
David Stewart Cercone  
United States District Judge

cc: Honorable Robert C. Mitchell  
United States Magistrate Judge

Scott Michael Hare, Esquire  
Bartony & Hare  
429 Fourth Avenue  
Suite 1801, Law & Finance Building  
Pittsburgh, PA 15219

Joshua Bachrach, Esquire  
Rawle & Henderson  
One South Penn Square  
The Widener Building, 16th Floor  
Philadelphia, PA 19107

Philip J. Sbrolla, Esquire  
Rawle & Henderson LLP  
535 Smithfield Street  
Suite 1000  
Pittsburgh, PA 15222